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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91211530
Party	Defendant William T. Odonnell DBA Odonnell Entertainment
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Date	10/24/2014
Attachments	MOTION TO QUASH OPPOSER'S NOTICE OF DEPOSITIONS.pdf(28995 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

Serial No. 85/785,996
For the mark ADVENTURES OF SHADOW,

Registration No. 3,991,181
For the mark ADVENTURES OF SHADOW,

J-Lynn Entertainment, LLC,

Opposer,

vs.

William T. Odonnell, d/b/aOdonnell Entertainment,

Applicant.

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Opposition No. 91211530 (Parent)
Cancellation No. 92056491 (Child)

MOTION TO QUASH OPPOSER’S NOTICES OF DEPOSITIONS

NOW COMES Applicant, William T. Odonnell, Jr. ("Applicant") and moves the Trademark Trial and Appeal Board (the "TTAB" or the "Board") to quash Opposer, J-Lynn Entertainment, LLC’s (“Opposer”) Notice of Testimonial Depositions of George Eitzen, Rick McRostie, Jerry Dean Greer, Sean McLaughlin, Jerusha Wilhelmi and Juan Carillo pursuant to TBMP § 521 *et seq.*, on the basis that (i) the notice of depositions fail to incorporate required information; and (ii) the notice of depositions are prejudicial and libelous in nature.

STATEMENT OF THE CASE

Opposer’s trial period opened in this matter on or about October 21, 2014. On or about October 23, 2014, Counsel for Applicant received by e-mail Opposer’s Notice of Depositions for the following witnesses: William T. Odonnell, Jr., William T. Odonnell, Sr., George Eitzen, Rick McRostie, Jerry Dean Greer, Sean McLaughlin, Jerusha Wilhelmi and Juan Carillo (see attached Exhibit A). The Opposer has noted the telephonic trial depositions of George Eitzen, Rick McRostie, Jerry Dean Greer, Sean McLaughlin, Jerusha Wilhelmi and Juan Carillo as follows:

WITNESS	TIME/DATE OF DEPOSITION
George Eitzen	8:45am Pacific Standard Time on October 31st 2014
Rick McRostie	8:45am Pacific Standard Time on October 31st 2014
Jerry Dean Greer	8:45am Pacific Standard Time on November 3rd 2014
Sean McLaughlin	8:45am Pacific Standard Time on November 4th 2014
Jerusha Wilhelmi	8:45am Pacific Standard Time on November 5th 2014
Juan Carillo	8:45am Pacific Standard Time on November 6th 2014

Applicant now timely files the instant motion respectfully requesting the Board enter an Order to quash the Notices of Depositions of George Eitzen, Rick McRostie, Jerry Dean Greer, Sean McLaughlin, Jerusha Wilhelmi and Juan Carillo.

ARGUMENT

Fed. R. Civ. P. 30(b)(1) requires a party seeking to take testimony depositions upon oral examination to give every adverse party reasonable notice in writing of the time when and place where the depositions will be taken, the cause or matter in which they are to be used, and the name and address of each witness to be examined. See 37 CFR § 2.123(c & d); TBMP Section 703.01(e); and Fed. R. Civ. P. 28.

In the instant matter, Opposer's Notice of Depositions of George Eitzen, Rick McRostie, Jerry Dean Greer, Sean McLaughlin, Jerusha Wilhelmi and Juan Carillo are inadequate as they fail to provide the name of the Officer to Administer Deposition as required by 37 C.F.R. § 2.124 and § 703.02(a) of the TBMP. Additionally, the Notices of Depositions are prejudicial and libelous in nature.

In sum, it is respectfully submitted to the Board that the Opposer's Notices of Depositions of George Eitzen, Rick McRostie, Jerry Dean Greer, Sean McLaughlin, Jerusha Wilhelmi and Juan Carillo are inadequate on their face.

CONCLUSION

WHEREFORE for the premises considered, Applicant, William T. Odonnell, Jr., by counsel, respectfully moves the Board for an Order to Quash the Opposer's Notices of Depositions of George Eitzen, Rick McRostie, Jerry Dean Greer, Sean McLaughlin, Jerusha Wilhelmi and Juan Carillo.

Respectfully submitted this 24th day of October, 2014.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/

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Counsel for Applicant

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing this 24th day of October, 2014 to be served, via first class mail, postage prepaid, upon:

NEADOM T MEDINA
J LYNN ENTERTAINMENT LLC
PO BOX 12365
MILL CREEK, WA 98012

/Matthew H. Swyers/
Matthew H. Swyers